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July 16, 2019

Hon. Robert W. Lehrburger
United States Magistrate Judge
500 Pearl Street
New York, NY 10007-1312

Re: State of New York, et al. v. Deutsche Telekom AG, et al., No. 1:19-cv-05434-VM (S.D.N.Y.)

Dear Magistrate Judge Lehrburger:

On behalf of all Defendants in the above-referenced case, I am writing in response to the letter submitted by Plaintiffs on July 15, 2019 requesting a status conference before Your Honor and raising certain issues regarding the October 7, 2019 trial date in this action.

As an initial matter, we thank the Court for its Order scheduling a case management conference on August 1, 2019 to address the discovery and scheduling issues raised by the parties, as well as non-party motions to amend the protective order. We agree with Plaintiffs that such a conference will be useful and look forward to addressing the trial date and other matters at that conference.

We do, however, wish to address certain assertions in Plaintiffs' July 15 correspondence regarding the October 7 trial date. Plaintiffs' letter gives the misimpression that Defendants disregarded Section 10 of the Case Management Order entirely. This is not correct. Under that section, Defendants agreed to provide Plaintiffs with the material terms of any DOJ settlement and related third-party agreements by June 28, 2019; and all definitive documents for such a potential settlement by July 12, 2019.

Hon. Robert W. Lehrburger
July 16, 2019

In fact, Defendants provided Plaintiffs with a summary of terms relating to a potential DOJ settlement and related third-party agreements on June 28. On July 2, in response to Plaintiffs' request, Defendants provided additional information and almost 300 pages of supporting materials that disclosed comprehensive details about a potential DOJ settlement. Any suggestion that this did not satisfy the first element of Section 10 of the Case Management Order is without merit. In fact, it went far beyond what was contemplated. While Plaintiffs are correct that definitive documents were not provided on July 12, this is only because a final settlement agreement with the DOJ has not yet been reached.

Defendants of course will provide these agreements to Plaintiffs at such time a settlement is finalized. This should not, however, necessarily cause a delay in the trial date. There is no reason to believe that any difference between the final agreements and the voluminous information and documentation previously provided to Plaintiffs will create difficulty for Plaintiffs in preparing for trial. And in the interim, the parties are proceeding apace with document discovery and scheduling depositions, and have until at least August 23 to complete depositions. This leaves plenty of time for Plaintiffs to consider any additional information in the final DOJ documentation and incorporate it into their trial preparation plan.

Defendants look forward to discussing the trial date as well as other pending issues with Your Honor at the case management conference on August 1, 2019.

Respectfully submitted,

/s/ David I. Gelfand

David I. Gelfand

cc (via ECF): All counsel of record